

**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
CONSUMER SERVICES DIVISION**

IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Mortgage Broker Practices Act of Washington by:

Fleetwood Retail Corp of Washington,

Respondent.

NO. C-02-382-03-SC01

STATEMENT OF CHARGES and NOTICE OF
INTENT TO REVOKE LICENSE AND IMPOSE
FINES

INTRODUCTION

Pursuant to RCW 19.146.220 and RCW 19.146.223, the Director of the Department of Financial Institutions of the State of Washington ("Director") is responsible for the administration of chapter 19.146 RCW, the Mortgage Broker Practices Act ("Act"). The referenced statutes (RCW) and rules (WAC) are attached, in pertinent part. After having conducted an investigation, and based upon the facts available as of January 10, 2003, the Director institutes this proceeding and finds as follows:

I. FACTS

1. Respondent:

Fleetwood Retail Corp of Washington is known to conduct the business of a mortgage broker at:

1821 N. Wenatchee Avenue Suite 200
Wenatchee, WA 98801

Fleetwood Retail Corp of Washington filed an incomplete "Washington State Mortgage Broker Amendment Application" on July 5, 2002 seeking to change its business address to:

2150 West 18th Suite 300
Houston, TX 77008

On July 12, 2002, the Department informed Fleetwood Retail Corp of Washington that its change in address could not be processed without addressing the following: (a) provide the Department with all original licenses for

1 the main office and all branches, (b) provide the Department with a completed "Authorization to Maintain
2 Records at an Out of State Location," and (c) provide the Washington State Department of Licensing with the
3 change in main office address. The letter further stated: "If a **written** response to this request has not been
4 received by August 12, 2002, your application will be considered withdrawn." (Emphasis in original.) To date,
5 Fleetwood Retail Corp of Washington has not responded to the Department and has not provided this information
6 to the Department.

7 **2. License:** Fleetwood Retail Corp of Washington was licensed by the Department of Financial Institutions
8 ("Department") to conduct business as a mortgage broker in December 1999 and has continued to be licensed to
9 date.

10 **3. Designated Broker:** Linda Thomas was named designated broker in December 1999 and was terminated
11 as designated broker in July 2002. On July 18, 2002 Fleetwood Retail Corp of Washington submitted to the
12 Department an incomplete "Change of Designated Broker Application" signed on July 18, 2002 indicating an effective
13 date of change of July 17, 2002. Fleetwood Retail Corp of Washington listed Melinda Davis as incoming designated
14 broker. Since July 2002, Fleetwood Retail Corp of Washington has not had a designated broker.

15 **4. Issuance of Directive:** On October 31, 2002, the Department issued a directive to Respondent requiring
16 the submission to the Department by November 15, 2002 of: (a) "W2's or 1099's to show that Ms. Davis has
17 the required 2 years experience originating residential mortgage loans", (b) "A copy of the certificate of
18 completion of the written examination," (c) "A personal credit report, which includes a public records search,"
19 (d) "Two completed fingerprint cards," and (e) "A completed Request to Maintain Records at an Out of State
20 Location form." On November 8, 2002, the Department received a signed United States Postal Service certified
21 mail return receipt indicating service and receipt of the Directive by Respondent. To date, Fleetwood Retail Corp
22 of Washington has not responded to the Director and has not provided the information to the Department.

5. **Failure to Respond and Failure to Submit Requested Records and Information:** To date, Respondent has not responded to the Department's requests. To date, the Department has not received any records or information requested from Respondent.

II. GROUNDS FOR ENTRY OF ORDER

1. **Authority to Revoke License:** Pursuant to RCW 19.146.220(2)(b)(iii), and WAC 208-660-160(17) and (18), the Director may revoke a license for failure to comply with any directive or order of the Director and for failure to provide a required certificate of passing an approved examination and for failing to provide satisfactory proof of two year's experience in accordance with WAC 208-660-040.

2. **Authority to Charge Examination Fee:** Pursuant to RCW 19.146.228(2), and WAC 208-660-060(2), upon completion of any examination of the books and records of a licensee, the Department will furnish to the licensee a billing to cover the cost of the examination. The examination charge will be calculated at the rate of forty-six dollars and twenty-six cents (\$46.26) per hour that each staff person devoted to the examination.

3. **Authority to Impose Fine:** Pursuant to RCW 19.146.220(2)(c)(ii) and WAC 208-660-165, the Director may impose fines on the licensee for failure to comply with any directive or order of the Director.

III. NOTICE OF INTENT TO ENTER ORDER

Respondent's violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth in the above Facts and Grounds for Entry of Order, constitute a basis for the entry of an Order under RCW 19.146.220. Therefore, it is the Director's intention to ORDER that:

1. The mortgage broker license held by Fleetwood Retail Corp of Washington be revoked,
2. Respondent pay an examination fee of \$693.90, calculated at \$46.26 per hour for each staff hour devoted to the investigation (15 hours); and
3. Respondents pay a fine of \$7,500 for failure to comply with a directive, calculated at \$75.00 per day for 75 days.

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IV. AUTHORITY AND PROCEDURE

This Statement of Charges and Notice is entered pursuant to the provisions of RCW 19.146.220, RCW 19.146.221 and RCW 19.146.230, and is subject to the provisions of chapter 34.05 RCW (The Administrative Procedure Act). Respondent may make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this Statement of Charges and Notice of Intent to revoke License and Impose Fines.

Dated this 14th day of January, 2003.

/S/
MARK THOMSON, DIRECTOR
DIVISION OF CONSUMER SERVICES
DEPARTMENT OF FINANCIAL INSTITUTIONS

Reviewed by:

/S/
Chuck Cross, Enforcement Chief

RCW 19.146.220 Director – Powers and duties – Violations as separate violations – Rules. (1) The director shall enforce all laws and rules relating to the licensing of mortgage brokers, grant or deny licenses to mortgage brokers, and hold hearings.

(2) The director may impose the following sanctions:

....
(b) Suspend or revoke licenses for:

(i) False statements or omission of material information on the application that, if known, would have allowed the director to deny the application for the original license;

(ii) Failure to pay a fee required by the director or maintain the required bond;

(iii) Failure to comply with any directive or order of the director; or

(iv) Any violation of RCW 19.146.050, 19.146.060(3), 19.146.0201 (1) through (9) or (12), 19.146.205(4), or 19.146.265;

(c) Impose fines on the licensee, employee or loan originator of the licensee, or other person subject to this chapter for:

(i) Any violations of RCW 19.146.0201 (1) through (9) or (12), 19.146.030 through 19.146.080, 19.146.200, 19.146.205(4), or 19.146.265; or

(ii) Failure to comply with any directive or order of the director;

....
(3) Each day's continuance of a violation or failure to comply with any directive or order of the director is a separate and distinct violation or failure.

....
[1997 c 106 § 12; 1997 c 58 § 879; 1996 c 103 § 1; 1994 c 33 § 12; 1993 c 468 § 8.]

RCW 19.146.221 Action by director – Hearing – Sanction. The director may, at his or her discretion and as provided for in *RCW 19.146.220(2), take any action specified in RCW 19.146.220(1). If the person subject to such action does not appear in person or by counsel at the time and place designated for any administrative hearing that may be held on the action then the person shall be deemed to consent to the action. If the person subject to the action consents, or if after hearing the director finds by a preponderance of the evidence that any grounds for sanctions under this chapter exist, then the director may impose any sanction authorized by this chapter. [1994 c 33 § 13.]

RCW 19.146.223 Director – Administration and interpretation. The director shall have the power and broad administrative discretion to administer and interpret the provisions of this chapter to fulfill the intent of the legislature as expressed in RCW 19.146.005. [1994 c 33 § 2.]

RCW 19.146.225 Director – Rule-making powers. In accordance with the administrative procedure act, chapter 34.05 RCW, the director may issue rules under this chapter only after seeking the advice of the mortgage brokerage commission and to govern the activities of licensed mortgage brokers and other persons subject to this chapter. [1994 c 33 § 15; 1993 c 468 § 9.]

RCW 19.146.228 Fees – Rules – Exception. The director shall establish fees by rule in accordance with RCW 43.24.086 sufficient to cover, but not exceed, the costs of administering this chapter. These fees may include:

(1) An annual assessment paid by each licensee on or before a date specified by rule;

(2) An investigation fee to cover the costs of any investigation of the books and records of a licensee or other person subject to this chapter; and

(3) An application fee to cover the costs of processing applications made to the director under this chapter.

Mortgage brokers shall not be charged investigation fees for the processing of complaints when the investigation determines that no violation of this chapter occurred or when the mortgage broker provides a remedy satisfactory to the complainant and the director and no order of the director is issued. All moneys, fees, and penalties collected under the authority of this chapter shall be deposited into the banking examination fund, unless the consumer services account is created as a dedicated, nonappropriated account, in which case all moneys, fees, and penalties collected under this chapter shall be deposited in the consumer services account. [1997 c 106 § 13; 1994 c 33 § 9.]

RCW 19.146.230 Administrative procedure act application. The proceedings for denying license applications, issuing cease and desist orders, suspending or revoking licenses, and imposing civil penalties or other remedies issued pursuant to this chapter and any appeal therefrom or review thereof shall be governed by the provisions of the administrative procedure act, chapter 34.05 RCW. [1994 c 33 § 16; 1993 c 468 § 10.]

WAC 208-660-040 Experience requirements. (1) A designated broker may use the following experience to satisfy the experience requirements of RCW 19.146.210 (1)(e) and 19.146.265:

- (a) As a mortgage broker, or as a designated broker, or branch office manager, of a mortgage broker business;
- (b) As a mortgage banker, or responsible individual or branch manager, of a mortgage banking business;
- (c) As a loan officer, with responsibility primarily for loans secured by a lien on real estate;
- (d) As a branch manager of a lender, with responsibility primarily for loans secured by a lien on real estate.
- (e) As a mortgage broker with a mortgage broker (or similar) license from another state where the licensing standards are substantially similar to those in this state, as determined by the director.

(2) Satisfactory proof of two years of experience may include valid copies of W-2 or 1099 tax forms verifying employment for the two-year period, valid copies of form 1120 corporate tax returns for the two-year period signed by the broker or manager as owner of the business for the two-year period, or signed letters from a lender on the lender's letterhead verifying that the broker or manager has originated mortgage loans for the two-year period.

WAC 208-660-060 Department's fees and assessments. . . .

(2) Upon completion of any examination of the books and records of a licensee, the department will furnish to the licensee a billing to cover the cost of the examination. The examination charge will be calculated at the rate of \$46.26 per hour that each staff person devoted to the examination. The examination billing will be paid by the licensee promptly upon receipt. Licensees that were issued licenses prior to March 21, 1994, have prepaid in their initial license fee the cost of the first compliance examination of the licensee conducted by the department during the first two years after the date of issuance of the license.

WAC 208-660-160 License application denial or condition; license suspension or revocation. The director may deny or condition approval of a license application, or suspend or revoke a license if the applicant or licensee, or any principal or designated broker of the applicant or licensee:

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- (17) Has failed to provide a required certificate of passing an approved examination;
- (18) Has failed to provide a required certificate of satisfactory completion of an approved licensing course or, in the alternative, satisfactory proof of two years' experience in accordance with WAC 208-660-040;
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WAC 208-660-165 Fines and penalties for violation of the Mortgage Broker Practices Act. Each mortgage broker and each of its principals, designated brokers, officers, employees, independent contractors, and agents shall comply with the applicable provisions of the Mortgage Broker Practices Act. Each violation of any applicable provision of the Mortgage Broker Practices Act, or of any order, directive, or requirement of the director may, at the discretion of the director, subject the violator to a fine of up to one hundred dollars for each offense. Each day's continuance of the violation is a separate and distinct offense. In addition, the director in his or her discretion may by order assess other penalties for a violation of the Mortgage Broker Practices Act.